



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBs0128/2
MDK:kjf&cs:rs

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 207**

November 8, 2007 – Offered by Senators VINEHOUT, RISSER, ROBSON, ERPENBACH,
LASSA and MILLER.

1 **AN ACT to repeal** 60.23 (4), 66.0421 (1) (a), 66.0421 (1) (b), 66.0422 (1) (a), 134.43,
2 196.04 (4) (a) 1. and 196.204 (7); **to renumber** 196.04 (4) (a) 2. a. to e.; **to**
3 **renumber and amend** 943.46 (1) (a); **to consolidate, renumber and amend**
4 196.04 (4) (a) (intro.) and 2. (intro.); **to amend** 11.01 (17g), 20.115 (1) (jb), 20.155
5 (1) (title), 20.155 (1) (g), 66.0419 (3) (intro.), 66.0419 (3) (b), 66.0419 (4), 66.0421
6 (title), 66.0421 (2), 66.0421 (3), 66.0421 (4), 66.0422 (title), 66.0422 (2) (intro.),
7 66.0422 (3) (b), 66.0422 (3n), 70.111 (25), 76.80 (3), 77.52 (2) (a) 12., 100.195 (1)
8 (c) 2., 100.261 (3) (c), 182.017 (1), 196.01 (1g), 196.01 (9m), 196.04 (4) (b),
9 196.195 (5), 196.203 (1m), 196.203 (3) (b) (intro.), 196.203 (3) (b) 2., 196.203 (3)
10 (c), 196.203 (3) (d), 196.203 (3) (e) 1. (intro.), 196.44 (1), 196.44 (2), 196.50 (1)
11 (b) 2. e., 196.50 (1) (c), 196.85 (1m) (b), 943.46 (title), 943.46 (2) (a), 943.46 (2)
12 (b), 943.46 (2) (c), 943.46 (2) (d), 943.46 (2) (e), 943.46 (2) (f), 943.46 (2) (g) and
13 943.46 (5); **to repeal and recreate** 100.195 (1) (h) 1., 100.209 and 196.01 (1p);

1 and **to create** 20.155 (4), 66.0420, 66.0421 (1) (c), 66.0421 (1) (d), 66.0422 (1)
2 (d), 196.01 (12g), 196.01 (12m), 196.01 (12r), 196.85 (1m) (d), 943.46 (1) (d) and
3 943.46 (1) (e) of the statutes; **relating to:** regulating video service providers,
4 granting rule-making authority, making an appropriation, and providing
5 penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 11.01 (17g) of the statutes is amended to read:

7 11.01 (17g) “Public access channel” means a channel that is required under a
8 franchise granted or renewed under s. 66.0419 (3) (b) by a city, village, or town to a
9 cable operator, as defined in s. 66.0419 (2) (b), and that is used for public access
10 purposes, but does not include a channel that is used for governmental or educational
11 purposes.

12 **SECTION 2.** 20.115 (1) (jb) of the statutes is amended to read:

13 20.115 (1) (jb) *Consumer protection, information, and education.* The amounts
14 in the schedule for consumer protection and consumer information and education.
15 All moneys received under s. ss. 66.0420 (4) (L) and 100.261 (3) (b) shall be credited
16 to this appropriation account, subject to the limit under s. 100.261 (3) (c).

17 **SECTION 3.** 20.155 (1) (title) of the statutes is amended to read:

18 20.155 (1) (title) REGULATION OF PUBLIC UTILITIES AND VIDEO SERVICE FRANCHISEES.

19 **SECTION 4.** 20.155 (1) (g) of the statutes is amended to read:

20 20.155 (1) (g) *Utility and video service regulation.* The amounts in the schedule
21 for the regulation of utilities and video service franchisees. Ninety percent of all
22 moneys received by the commission under s. 196.85, 196.855, or 201.10 (3) shall be
23 credited to this appropriation. Ninety percent of all receipts from the sale of

1 miscellaneous printed reports and other copied material, the cost of which was
2 originally paid under this paragraph, shall be credited to this appropriation.

3 **SECTION 5.** 20.155 (4) of the statutes is created to read:

4 20.155 (4) BROADBAND GRANT PROGRAM. (g) *Grants.* All moneys received under
5 s. 66.0420 (9) (h) 1. for the purpose of making grants under s. 66.0420 (9) (h) 2.

6 **SECTION 6.** 60.23 (4) of the statutes is repealed.

7 **SECTION 7.** 66.0419 (3) (intro.) of the statutes is amended to read:

8 66.0419 (3) FRANCHISES. (intro.) ~~A~~ Except as provided in s. 66.0420, a
9 municipality may operate or regulate a cable television system and in such operation
10 and regulation may, without limitation because of enumeration:

11 **SECTION 8.** 66.0419 (3) (b) of the statutes is amended to read:

12 66.0419 (3) (b) Grant, renew, or revoke one or more franchises authorizing the
13 construction and operation of a cable television system and govern the operation of
14 any franchise granted.

15 **SECTION 9.** 66.0419 (4) of the statutes is amended to read:

16 66.0419 (4) CONSTRUCTION. The authority granted under this section to a
17 municipality to operate and regulate a cable television system is in addition to any
18 other power which the municipality has and the authority of a municipality to
19 operate and regulate a cable television system is limited only by the express
20 language of this section and s. 66.0420.

21 **SECTION 10.** 66.0420 of the statutes is created to read:

22 **66.0420 Video service. (1) LEGISLATIVE FINDINGS.** The legislature finds all
23 of the following:

1 (a) The economy in the state of Wisconsin will be enhanced by investment in
2 new communications and video services, including broadband service facilities and
3 fiber optic and Internet protocol technologies.

4 (b) Video services bring important daily benefits to Wisconsin consumers by
5 providing news, education, and entertainment.

6 (c) Competitive video service providers are capable of providing new video
7 programming services and competition to Wisconsin consumers and of decreasing
8 the prices for video programming services paid by Wisconsin consumers.

9 (d) Although there has been some competitive entry into the facilities-based
10 video programming market since s. 66.0419 was enacted, further entry by
11 facilities-based providers could benefit consumers, if video services are equitably
12 available to all Wisconsin consumers at reasonable prices.

13 (e) The provision of competitive video services is a matter of statewide concern
14 that extends beyond the boundaries of individual municipalities. However, public
15 rights-of-way are limited resources over which a municipality has a custodial duty
16 and ownership interest to ensure that the public rights-of-way are used, repaired,
17 and maintained in a manner that best serves the public interest.

18 (f) This section is intended to enable rapid and widespread entry by competitive
19 video service providers which will bring to Wisconsin consumers the benefits of video
20 competition, including providing consumers with more choice, lower prices, higher
21 speed and more advanced Internet access, more diverse and varied news, public
22 information, education, and entertainment programming; and will bring to this state
23 and municipalities the benefits of new infrastructure investment, job growth, and
24 innovation in broadband service and Internet protocol technologies and deployment.

1 (g) This section is intended to best ensure equal treatment and parity among
2 different providers of video services and different technologies for providing such
3 services.

4 **(2) DEFINITIONS.** In this section:

5 (a) "Affiliate", when used in relation to any person, means another person who
6 owns or controls, is owned or controlled by, or is under common ownership or control
7 with such person.

8 (b) "Basic video service" means any video service offering or service tier which
9 includes the retransmission of local television broadcast signals.

10 (c) "Broadband service" means a high-speed service connection to the public
11 Internet that is capable of supporting, in at least one direction, a speed in excess of
12 200 kilobits per second to a network demarcation point at a subscriber's premises.

13 (d) "Cable franchise" means a franchise granted under s. 66.0419 (3) (b).

14 (e) "Cable operator" has the meaning given in 47 USC 522 (5).

15 (f) "Cable service" has the meaning given in 47 USC 522 (6).

16 (g) "Cable system" has the meaning given in 47 USC 522 (7).

17 (h) "Commission" means the public service commission.

18 (i) "Competitive video service provider" means a person that is providing or
19 seeks to provide video service in an area where there is at least one incumbent cable
20 operator.

21 (j) "Household" means any individual or group of individuals who are living
22 together as one economic unit.

23 (k) "Incumbent cable operator" means a person that, immediately before the
24 effective date of this paragraph.... [revisor inserts date], provided cable service in a
25 municipality under a cable franchise.

1 (L) “Issued” means, with respect to a video service franchise, issued or
2 considered to be issued by the commission.

3 (m) “Low-income household” means a household whose aggregate individual
4 and group income is not more than 150 percent of the poverty line as determined
5 under 42 USC 9902 (2).

6 (n) “Municipality” means a city, village, or town.

7 (o) “Municipally regulated cable operator” means an incumbent cable operator
8 that has not elected to terminate its cable franchise under sub. (3) (b) 1. b.

9 (p) “PEG channel” means a channel designated for noncommercial public,
10 educational, or governmental use.

11 (q) “PEG channel manager” means a person authorized by a municipality to
12 manage PEG channels.

13 (qm) “PEG support fee” means a fee required under sub. (7) (d) 1.

14 (r) “Public rights-of-way” means the areas on, below, or above a public
15 roadway, highway, street, public sidewalk, alley, or waterway, and includes utility
16 easements dedicated for compatible uses.

17 (s) “Service tier” means a category of video service for which a separate rate is
18 charged.

19 (t) “Telecommunications service area” means the area designated by the
20 commission as the area in which a telecommunications provider was obligated to
21 provide noncompetitive local telephone service.

22 (u) “Video programming” has the meaning given in 47 USC 522 (20).

23 (v) “Video service” means video programming and subscriber interaction, if any,
24 that is required for the selection or use of video programming, and which is provided
25 through wireline facilities located at least in part in the public rights-of-way

1 without regard to delivery technology, including Internet protocol technology. “Video
2 service” includes cable service. “Video service” does not include any video
3 programming provided by a commercial mobile service provider, as defined in 47
4 USC 332 (d), or any video programming provided solely as part of, and via, a service
5 that enables users to access content, information, electronic mail, or other services
6 offered over the public Internet.

7 (w) “Video service area” means, with respect to a video service franchisee, the
8 geographic area designated by the video service franchisee in its application for a
9 video service franchise as the geographic area in which it will offer video services
10 during the period of its video service franchise.

11 (x) “Video service franchise” means a franchise issued by the commission under
12 sub. (4) (g) 1.

13 (xm) “Video service franchise fee” means a fee required under sub. (7) (c).

14 (y) “Video service franchisee” means a person issued a video service franchise
15 by the commission.

16 (z) “Video service network” means wireline facilities, or any component thereof,
17 located at least in part in public rights-of-way that deliver video service, without
18 regard to delivery technology, including Internet protocol technology or any other
19 technology. “Video service network” includes a cable system.

20 **(3) AUTHORITY TO PROVIDE VIDEO SERVICE.** (a) *Public rights-of-way.* 1. Except
21 for a municipally regulated cable operator, no person may provide video service in
22 this state, or use the public rights-of-way for installing or constructing facilities for
23 the provision of video service, unless the commission has issued a video service
24 franchise to the person.

1 2. This section does not affect a municipality’s authority under s. 182.017 (1)
2 to grant permits for the use of public rights-of-way to install or construct facilities
3 to provide video service. A municipality is not required to grant a permit under s.
4 182.017 (1) to install or construct facilities to provide video service to a person that
5 has not been issued a video service franchise or a cable franchise.

6 (b) *Incumbent cable operators.* 1. An incumbent cable operator may do one of
7 the following:

8 a. Upon expiration of the incumbent cable operator’s cable franchise, apply to
9 the municipality that granted the cable franchise for renewal of the cable franchise
10 under s. 66.0419 (3).

11 b. At any time prior to expiration of the incumbent cable operator’s cable
12 franchise, terminate the cable franchise and apply to the commission for a video
13 service franchise under sub. (4). At least 180 days before making an application
14 under sub. (4), the incumbent cable operator shall provide advance notice to the
15 commission, the municipality that granted a cable franchise to the incumbent cable
16 operator, and the municipality’s PEG channel manager. Termination of the cable
17 franchise shall be effective on the date that the commission issues a video service
18 franchise to the incumbent cable operator.

19 2. An incumbent cable operator that elects to terminate its cable franchise shall
20 do all of the following:

21 a. Pay to the municipality that granted the cable franchise and any PEG
22 channel manager any accrued but unpaid amounts that are due under the cable
23 franchise. Such amounts must be remitted before the 46th day after the date that
24 termination of the cable franchise is effective. If the incumbent cable operator has
25 a credit for any amounts due under the cable franchise that the incumbent cable

1 operator has prepaid, the incumbent cable operator may deduct the amount of the
2 credit from any future PEG support or video service franchise fees that the
3 incumbent cable operator is required to pay to the municipality.

4 b. Pay to the municipality that granted the cable franchise and the
5 municipality's PEG channel manager, at the time that they would have been due, all
6 monetary payments for PEG channels that would have been due during the
7 remaining term of the cable franchise had it not been terminated by the incumbent
8 cable operator. All payments made by an incumbent cable operator under this subd.
9 2. b. shall be credited against any PEG support or video service franchise fees that
10 the incumbent cable operator otherwise owes to the municipality.

11 3. An incumbent cable operator that elects to terminate its cable franchise, and
12 any successor in interest, is required to comply with any requirements of the
13 municipality that granted the franchise that require the incumbent cable operator
14 to provide access to video service and that are in effect on the effective date of this
15 subdivision [revisor inserts date].

16 (c) *Video service franchisees.* 1. For purposes of 47 USC 521 to 573, the
17 commission is the franchising authority for video service franchisees, and
18 municipalities are the exclusive franchising authorities for municipally regulated
19 cable operators. The commission may not impose franchising requirements on
20 municipally regulated cable operators and municipalities may not impose
21 franchising requirements on video service franchisees. Notwithstanding any other
22 provision of this section, a video service franchisee that uses telecommunications
23 facilities to provide video service is not obligated to provide video service outside the
24 video service franchisee's telecommunications service area.

1 2. A video service franchisee is not subject to any other franchise obligations
2 under state law within its video service area, except as provided in this section.
3 Except as provided under this section, neither the commission nor any municipality
4 may require a video service franchisee to obtain a separate franchise or pay any
5 franchise fee on video service.

6 **(4) VIDEO SERVICE FRANCHISE.** (a) *Application; affidavit.* An applicant for a
7 video service franchise shall submit an application to the commission that includes
8 a completed affidavit signed by an officer or general partner of the applicant that
9 affirms all of the following:

10 1. That the applicant has filed or will timely file with the federal
11 communications commission all forms required by that agency in advance of offering
12 video service in this state.

13 2. That the applicant agrees to comply with all applicable federal and state
14 statutes, rules, and regulations.

15 3. That the applicant agrees to comply with all applicable regulations of a
16 municipality.

17 (b) *Application; video service area.* 1. An application under par. (a) shall
18 include an exact description of the video service area and identify the number of
19 low-income households within the video service area. The video service area shall
20 be described in terms of one of the following:

21 a. Telephone service exchange areas.

22 b. A collection of United States Census Bureau 13-digit block numbers.

23 c. Geographic information system digital boundaries meeting or exceeding
24 national map accuracy standards established by the U.S. Geological Survey, if the
25 area is not large enough to be described as specified in subd. 1. a. or b.

1 d. Municipalities.

2 2. If the applicant is an incumbent cable operator that seeks to offer video
3 service within one or more municipalities that have issued a cable franchise to the
4 applicant, the video service area described under subd. 1. must consist of an area no
5 smaller than the aggregate of the service areas under each cable franchise issued by
6 a municipality in which the incumbent cable operator seeks to offer video service.

7 (c) *Application; other requirements.* An application under par. (a) shall contain
8 all of the following:

9 1. The location and telephone number of the applicant's principal place of
10 business within this state.

11 2. The names of the applicant's principal executive officers who are responsible
12 for communications concerning the application and the services to be offered
13 pursuant to the application.

14 3. The applicant's legal name and any name or names under which the
15 applicant does or will provide video services in this state.

16 4. A certification that the applicant concurrently delivered a copy of the
17 application to each municipality that includes all or any part of the video service area
18 described under par. (b).

19 5. The expected date that the applicant will initially offer video service in the
20 video service area described under par. (b). If a video service franchisee does not offer
21 video service within 3 months after the expected date, the video service franchisee
22 shall amend its application to update the expected date and explain the delay in
23 offering video service.

24 6. Adequate assurance that the applicant possesses the financial, managerial,
25 legal, and technical qualifications necessary to construct and operate the proposed

1 system, promptly repair any damage to the public rights-of-way caused by the
2 applicant, and pay the cost of removal of its facilities.

3 7. The applicant's general standards related to customer service established
4 under s. 100.209 (3).

5 (d) *Confidentiality*. Information included in an application under par. (a), or
6 subsequently reported to the commission by a video service franchisee, shall be
7 subject to the commission's rules under s. 196.135 (2), except that the commission
8 may not treat as confidential any of the following:

9 1. Information regarding the specific locations where access to video service is
10 offered or available.

11 2. Aggregate information included in reports required under this section.

12 (e) *Internet posting*. Subject to par. (d), the commission shall post all
13 applications for video service franchises on its Internet Web site no later than 5
14 business days after receiving an application.

15 (f) *Completeness notice*. No later than 15 business days after receiving an
16 application for a video service franchise, the commission shall notify the applicant
17 whether the application is complete. If the application is not complete, the
18 commission shall state in its notice the reasons the application is incomplete, and the
19 applicant may resubmit the application.

20 (g) *Issuance*. 1. No later than 30 business days after the commission's receipt
21 of a complete application, the commission shall issue a video service franchise to the
22 applicant. If the commission does not notify an applicant regarding the completeness
23 of the application before the deadline specified in par. (f), or the commission does not
24 issue a video service franchise to an applicant before the deadline under this

1 paragraph, the commission is considered to have issued a video service franchise to
2 the applicant on the 30th business day after the commission receives the application.

3 2. No later than 3 business days after issuing a video service franchise to an
4 applicant, the commission shall notify each municipality that includes any part of
5 the video service area described by the applicant under par. (b).

6 (h) *Transfer.* A video service franchisee may transfer its video service franchise
7 to any successor in interest if the successor in interest submits, no later than 15
8 business days before completion of the transfer, a notice of the transfer to the
9 commission and each municipality that includes any part of the video service area.
10 The successor in interest may not provide video service unless the successor in
11 interest applies for, and is issued, a video service franchise under this subsection.
12 The commission may not issue a video service franchise to the successor in interest
13 if any of the following apply:

14 1. The video service franchisee that transferred the video service franchise to
15 the successor in interest has committed a material and continuing violation of this
16 section.

17 2. The successor in interest has exhibited a pattern of noncompliance with
18 customer service standards.

19 3. The successor in interest is insolvent.

20 (i) *Termination; video service area modification.* 1. Except as provided in subd.
21 2., a video service franchisee may terminate its video service franchise or modify its
22 video service area by submitting a notice of the termination or modification to the
23 commission and each municipality that includes any part of the video service area.
24 The commission may not take any action regarding the notice.

1 2. A video service franchisee may not terminate its video service franchise or
2 modify its video service area if any of the following apply:

3 a. The termination or modification results in an area in which no video service
4 is available from any provider.

5 b. The termination or modification is based on the race or income of the
6 residents in the local area in which the residents reside.

7 (j) *Expiration and renewal.* A video service franchise expires 10 years after the
8 date that the commission issues the franchise. Upon expiration, a video service
9 franchisee shall reapply for a video service franchise.

10 (k) *Commission expenses.* The commission shall bill an applicant or video
11 service franchisee under s. 196.85 (1) any expense incurred by the commission with
12 respect to an application or any other matter regarding the applicant or video service
13 franchisee.

14 (L) *Annual fees.* Upon issuance of a video service franchise to a video service
15 franchisee, and annually thereafter, the video service franchisee shall pay a fee of
16 \$2,000 to the department of agriculture, trade and consumer protection.

17 **(5) PEG CHANNELS.** (a) *Channel capacity; number of channels.* 1. Except as
18 provided in subd. 2., a municipality that includes any portion of the video service area
19 of a video service franchisee may require the video service franchisee to do all of the
20 following, and the video service franchisee shall take any required action no later
21 than 90 days after the municipality notifies the video service franchisee of the
22 requirement or than the date on which the video service franchisee begins to provide
23 video service in the municipality, whichever is later:

24 a. Designate the same amount of capacity on its video service network for PEG
25 channels as an incumbent cable operator was required to designate under a cable

1 franchise that was granted to the incumbent cable operator by the municipality and
2 that was in effect on January 1, 2007.

3 b. Retransmit to its subscribers the same number of PEG channels as an
4 incumbent cable operator was required to retransmit under a cable franchise that
5 was granted to the incumbent cable operator by the municipality and that was in
6 effect on January 1, 2007.

7 2. If a municipality that includes any portion of the video service area of a video
8 service franchisee was provided less than 3 PEG channels by an incumbent cable
9 operator on January 1, 2007, then, under subd. 1., the municipality may require the
10 video service franchisee to designate sufficient capacity on its video service network
11 for no more than 3 PEG channels and retransmit to its subscribers no more than 3
12 PEG channels.

13 3. Any time that programming on any PEG channel that a municipality
14 requires a video service franchisee to retransmit under this paragraph exceeds 40
15 hours per week as measured on a quarterly basis, the municipality may require the
16 video service franchisee to designate sufficient capacity on its video service network
17 for one additional PEG channel and retransmit to its subscribers one additional PEG
18 channel. The municipality shall provide the video service franchisee with a written
19 notice that specifies the number of PEG channels used by the municipality and
20 verifies that the additional PEG channel will be put into actual use. No later than
21 90 days after receiving the notice, the video service franchisee shall comply with the
22 requirement. The additional PEG channel may not be used for any purpose other
23 than for carrying additional PEG channel programming.

24 (b) *Transmission duties.* 1. If a municipality produces or maintains PEG
25 channel programming in a manner or form that is compatible with a video service

1 franchisee’s video service network and that permits the video service franchisee to
2 comply with the requirements of subd. 2., the municipality shall transmit the
3 programming to the video service franchisee in that manner or form. If the
4 municipality does not produce or maintain PEG channel programming in such
5 manner or form, the video service franchisee shall be responsible for any changes in
6 the manner or form of the transmission that are necessary to make PEG channel
7 programming compatible with the technology or protocol used by the video service
8 franchisee to deliver services. If a video service franchisee is required to make such
9 changes to the manner or form of the transmission, the municipality shall provide
10 reasonable access to the video service franchisee that allows the video service
11 franchisee to transmit the PEG channel programming in an economical manner
12 subject to the requirements of subd. 2.

13 2. A video service franchisee shall retransmit PEG channels to its subscribers
14 with visual and audio quality and functionality that is equivalent, from the viewing
15 perspective of the subscriber, to that of commercial channels carried on the video
16 service franchisee’s basic video service offerings or service tiers and without the need
17 for any equipment other than the equipment necessary to receive the video service
18 franchisee’s basic video service offerings or service tiers.

19 3. A video service franchisee shall carry PEG channels on its basic video
20 service. To the extent feasible, PEG channels may not be separated numerically from
21 other channels carried on the video service franchisee’s basic video service, and the
22 channel numbers for PEG channels shall be the same channel numbers used by an
23 incumbent cable operator unless prohibited by federal law. After the initial
24 designation of PEG channel numbers, the channel numbers may not be changed
25 without the agreement of the municipality or the municipality’s PEG channel

1 manager, unless the change is required by federal law. Each channel shall be capable
2 of carrying a National Television Systems Committee television signal.

3 (c) *Fees prohibited.* A video service franchisee may not charge a municipality,
4 a municipality's PEG channel manager, or a municipality's PEG channel
5 programming providers any fee for complying with this subsection.

6 (d) *Interconnection.* Video service franchisees and incumbent cable operators
7 shall negotiate in good faith amongst themselves to interconnect their video service
8 networks, if needed, for the purpose of complying with this subsection.
9 Interconnection may be accomplished by direct cable, microwave link, satellite, or
10 other reasonable method of connection. Video service franchisees and incumbent
11 cable operators shall provide such interconnection on reasonable terms and
12 conditions and may not withhold such interconnection. If video service franchisees
13 and incumbent cable operators cannot reach a mutually acceptable interconnection
14 agreement, a municipality may require an incumbent cable operator to allow a video
15 service franchisee to interconnect its video service network with the incumbent cable
16 operator's video service network at a technically feasible point on their video service
17 networks. If no technically feasible point for interconnection between a video service
18 franchisee and incumbent cable operator is available, the video service franchisee
19 and incumbent cable operator shall each make an interconnection available to PEG
20 channel local origination points and shall provide the facilities necessary for the
21 interconnection. The cost of any interconnection shall be borne by a video service
22 franchisee unless otherwise agreed to by the parties. The interconnection required
23 by this paragraph shall be completed within the deadline for taking action required
24 under par. (a) 1. that is specified in par. (a) 1. (intro.).

1 (e) *PEG channel usage.* PEG channels required by a municipality under this
2 subsection shall be for the exclusive use of the municipality, or the municipality's
3 PEG channel manager, to provide public, education, and government programming,
4 and may be used only for noncommercial purposes, except that advertising,
5 underwriting, or sponsorship recognition may be carried on the channels for the
6 purpose of funding public, education, and government access related activities.

7 (f) *PEG channel listing.* A video service franchisee shall provide a listing of
8 PEG channels on channel cards and menus provided to subscribers in a manner
9 equivalent to other channels if the video service franchisee uses such cards and
10 menus. A video service franchisee shall provide a listing of PEG channel
11 programming on its electronic program guide if such a guide is used by the video
12 service franchisee. A municipality shall provide a video service franchisee or an
13 agent designated by a video service franchisee with program schedules and
14 information in a timely manner.

15 (g) *Programming.* 1. A person that produces programming for broadcast on
16 a PEG channel is solely responsible for the content of the programming. A video
17 service franchisee may not exercise any editorial control over any programming on
18 any PEG channel.

19 2. A video service franchisee is not subject to any civil or criminal liability for
20 any program carried on any PEG channel.

21 (h) *Enforcement.* In an action to enforce this subsection, a court may not
22 prohibit a video service franchisee from providing video service or require a video
23 service franchisee to terminate video service.

24 **(6) EMERGENCY ALERT SYSTEM.** A video service franchisee shall comply with all
25 requirements of the federal communications commission regarding the distribution

1 and notification of federal, state, and local emergency messages over the emergency
2 alert system that apply to cable operators. A video service franchisee shall provide
3 a requesting municipality with sufficient information regarding how to submit, via
4 telephone or Web site listing, a local emergency alert for distribution over its video
5 service network. A municipality that requires a municipally regulated cable
6 operator to comply with emergency alert system message or service requirements
7 that are in addition to the requirements imposed under this subsection may impose
8 such additional requirements on a video service franchisee that provides video
9 service within the municipality. A video service franchisee may provide a local
10 emergency alert to an area larger than the boundaries of the municipality issuing the
11 emergency alert.

12 **(7) MUNICIPALITY FEES.** (a) *Gross revenue calculation.* 1. 'Generally.' Gross
13 revenue of a video service franchisee consists of all consideration of any kind or
14 nature, including cash, credits, property, and the monetary value of in-kind
15 contributions, received by the video service franchisee for the operation of a video
16 service network to provide video service within the video service franchisee's video
17 service area that is located within a municipality.

18 2. 'Inclusions.' Gross revenue of a video service franchisee includes all of the
19 following:

- 20 a. Recurring charges for video service.
- 21 b. Event-based charges for video service, including pay-per-view and
22 video-on-demand charges.
- 23 c. Rental of set top boxes and other video service equipment.
- 24 d. Service charges related to the provision of video service, including activation,
25 installation, and repair charges.

1 e. Administrative charges related to the provision of video service, including
2 service order and service termination charges.

3 f. Late payment fees or charges, insufficient funds check charges, and other
4 charges assessed to recover the costs of collecting delinquent payments.

5 g. A pro rata portion of all revenue that is derived by the video service
6 franchisee or its affiliates pursuant to regional or national compensation
7 arrangements for advertising, promoting, or exhibiting any products or services, and
8 that is also derived from the operation of the video service franchisee's video service
9 network to provide video service within a municipality. The pro rata portion shall
10 be determined by dividing the number of the video service franchisee's subscribers
11 in the municipality by the total number of the video service franchisee's subscribers
12 in the regional or national area covered by the compensation arrangement.

13 h. Commissions that are received by the video service franchisee as
14 compensation for promoting or exhibiting any products or services on the video
15 service franchisee's video service network, such as a home shopping or similar
16 channel.

17 i. Video service franchise fees.

18 3. 'Exclusions.' Gross revenue of a video service franchisee does not include any
19 of the following:

20 a. Revenues not actually received, including revenues that are billed.

21 b. Refunds, discounts, or other price adjustments that reduce the amount of
22 gross revenue received by the video service franchisee to the extent that the refund,
23 discount, or other price adjustment is attributable to video service.

24 c. Revenue from the sale of video service for resale to a purchaser that is
25 required to collect a video service franchise fee from the purchaser's subscribers, but

1 only if the purchaser certifies in writing that the purchaser will resell the service
2 within the municipality to which the video service franchise fee is payable and that
3 the purchaser will pay the video service franchise fee to the municipality.

4 d. Any tax or fee of general applicability imposed upon the subscribers or the
5 transaction by a city, state, federal, or any other governmental entity and collected
6 by the video service franchisee and required to be remitted to the taxing entity,
7 including sales and use taxes.

8 e. Security deposits collected from subscribers.

9 f. Amounts paid by subscribers to home shopping or similar vendors for
10 merchandise sold through any home shopping channel offered as part of the video
11 service.

12 4. 'Bundled services.' a. Except as provided in subd. 4. b., if a video service is
13 bundled, packaged, or integrated functionally with other services, capabilities, or
14 applications, the portion of the video service franchisee's revenue that is attributable
15 to the other services, capabilities, or applications shall be included in the calculation
16 of the video service franchisee's gross revenue unless the video service franchisee can
17 reasonably identify the division or exclusion of the revenue from its books and
18 records that are kept in the regular course of business.

19 b. Gross revenue of a video service franchisee does not include any revenue
20 received from nonvideo services, including revenue received from
21 telecommunications services, information services, or the provision of directory or
22 Internet advertising, including yellow pages, white pages, banner advertisement,
23 and electronic publishing, or any other revenues attributed by a video service
24 franchisee to nonvideo service in accordance with the video service franchisee's books
25 and records kept in the regular course of business and in accordance with any

1 applicable laws, rules, regulations, standards, or orders. This subd. 4. b. applies
2 regardless of whether the nonvideo services are bundled, packaged, or functionally
3 integrated with video services.

4 5. ‘Affiliates.’ Revenue of an affiliate of a video service franchisee shall be
5 included in the video service franchisee’s gross revenue to the extent the treatment
6 of the revenue as revenue of the affiliate rather than of the video service franchisee
7 has the effect of evading the requirement to pay a video service franchise fee or PEG
8 support fee.

9 (b) *Notice.* No less than 10 days before offering video service in a municipality,
10 a video service franchisee shall notify the municipality.

11 (c) *Video service franchise fee.* 1. In any municipality in which a video service
12 franchisee offers video service on a commercial basis, the video service franchisee
13 shall, upon request by such a municipality, be liable for and pay a video service
14 franchise fee to the municipality. The video service franchise fee shall equal one of
15 the following percentages of the video service franchisee’s gross revenues, whichever
16 is less:

17 a. Five percent.

18 b. The percentage of revenues that the municipality required, on the effective
19 date of this subd. 1. b. [revisor inserts date], an incumbent cable operator to pay
20 as a franchise fee under s. 66.0419 (3) (c).

21 2. Payment of the video service franchise fee is due on a quarterly basis 45 days
22 after the close of the calendar quarter. If mailed, the video service franchise fee is
23 considered paid on the date it is postmarked.

24 3. Except as otherwise provided in this section or s. 66.0425 or 182.017 (1), a
25 municipality may not demand any additional fees or charges from a video service

1 franchisee and may not demand the use of any other calculation method other than
2 allowed under this subsection.

3 (d) *PEG support fee.* 1. A video service franchisee shall, upon request by a
4 municipality in which the video service franchisee provides video service, pay to the
5 municipality or the municipality's PEG channel manager, as support for PEG
6 channels, a PEG support fee equal to not less than 1 percent of the video service
7 franchisee's gross revenue or the percentage of the video service franchisee's gross
8 revenue that results from performing the following calculation, whichever is greater:

9 a. Determining the aggregate annual amount that each incumbent cable
10 operator that provides cable service in the video service franchisee's service area is
11 obligated to pay the municipality or its PEG channel manager under a cable
12 franchise, agreement, or contract in effect on January 1, 2007, including any
13 payments required under sub. (3) (b) 2. b., and including the amount resulting by
14 dividing the total amount of any lump sum payments required to be made over the
15 term of such franchise, contract, or agreement by the number of years of the term of
16 the franchise, contract, or agreement.

17 b. Determining the aggregate annual amount of gross revenue during the
18 preceding calendar year of each incumbent cable operator specified in subd. 1. a.

19 c. Determining the percentage that results from dividing the amount
20 determined under subd. 1. a. by the amount determined under subd. 1. b.

21 2. PEG support fees are due on a quarterly basis and must be paid no later than
22 45 days after the close of a calendar quarter. PEG support fees are first due for the
23 quarter that includes the 90th day after a municipality requests payment of the fees
24 or the date on which the video service franchisee begins to provide video service in
25 the municipality, whichever is later. Each payment shall include a statement

1 explaining the basis for the calculation of the PEG support fee. If mailed, the PEG
2 support fee is considered paid on the date it is postmarked.

3 3. A municipality may require a video service franchisee to provide the
4 municipality or the municipality's PEG channel manager with any information
5 sufficient to calculate the PEG support fee required under this paragraph or the
6 monetary payments for PEG channels required under sub. (3) (b) 2. b.

7 (e) *Bill itemization.* A video service franchisee may identify and collect the
8 amount of the video service franchise fee or PEG support fee as separate line items
9 on the regular bill of each subscriber.

10 (f) *Accounting.* All determinations and computations under this subsection
11 shall be made pursuant to generally accepted accounting principles.

12 **(8) AUDITS; PAYMENTS.** (a) Upon receiving a notice under sub. (4) (g) 2. that a
13 video service franchisee has received a video service franchise, a municipality shall
14 notify the video service franchisee of the municipality's requirements for the video
15 service franchisee to submit to an audit of its books and records. Such requirements
16 shall be the same as those that apply to incumbent cable operators providing video
17 service in the municipality on the effective date of this paragraph [revisor inserts
18 date]. If there are no such incumbent cable operators, the municipality may impose
19 reasonable audit requirements.

20 (b) Acceptance by a municipality of amounts remitted by a video service
21 franchise shall not be construed as an accord that the amounts are correct.

22 (c) Any additional amount due after an audit shall be paid within 30 days after
23 the municipality's submission of an invoice for the sum.

24 **(9) DISCRIMINATION; ACCESS TO SERVICES.** (a) *Definitions.* In this subsection:

1 1. “Basic local exchange service area” means the area on file with the
2 commission in which a large telecommunications video service franchisee provides
3 basic local exchange service, as defined in s. 196.01 (1g).

4 2. “Large telecommunications video service franchisee” means any of the
5 following:

6 a. A video service franchisee that is a telecommunications video service
7 provider and that, on January 1, 2007, had more than 500,000 basic local exchange
8 access lines in this state.

9 b. An affiliate of a video service franchisee described under subd. 2. a.

10 3. “Telecommunications video service provider” means a person that uses
11 facilities for providing telecommunications service, as defined in s. 196.01 (9m), also
12 to provide video service.

13 (b) *Access determination.* For purposes of this subsection, a video service
14 franchisee provides access to its video service to a household if the video service
15 franchisee is capable of providing video service at the household address using any
16 technology, other than direct-to-home satellite service, that provides two-way
17 broadband Internet capability, and video programming, content, and functionality
18 which are demonstrably similar to video programming, content, and functionality
19 provided through the video service franchisee’s video service system, regardless of
20 whether any customer at the household address has ordered service or whether the
21 owner or landlord or other responsible person has granted access to the household
22 address. If more than one technology is used, access is provided only if the
23 technologies provide similar two-way broadband Internet capability and similar
24 video programming.

1 (c) *Discrimination prohibited.* 1. No video service franchisee may deny access
2 to video service to any group of potential residential customers in the video service
3 franchisee’s video service area because of the race or income of the residents in the
4 local area in which the group resides.

5 2. It is a defense to an alleged violation of subd. 1. based on income if the video
6 service franchisee has met either of the following conditions:

7 a. No later than 3 years after the date on which the video service franchisee
8 began providing video service under this section, at least 25 percent of households
9 with access to the video service franchisee’s video service are low-income
10 households.

11 b. No later than 5 years after the date on which the video service franchisee
12 began providing video service under this section, at least 30 percent of the
13 households with access to the video service franchisee’s video service are low-income
14 households.

15 (d) *Access requirements.* 1. A large telecommunications video service
16 franchisee shall provide access to its video service to the following percentages of
17 households within the large telecommunications video service franchisee’s basic
18 local exchange service area:

19 a. Not less than 35 percent no later than 3 years after the date on which the
20 large telecommunications video service franchisee began providing video service
21 under this section.

22 b. Not less than 50 percent no later than 5 years after the date on which the
23 large telecommunications video service franchisee began providing video service
24 under this section, or no later than 2 years after at least 30 percent of households

1 with access to the large telecommunications video service franchisee's video service
2 subscribe to the service for 6 consecutive months, whichever occurs later.

3 2. A large telecommunications video service franchisee shall file an annual
4 report with the commission regarding the large telecommunications video service
5 franchisee's progress in complying with subd. 1.

6 (e) *Extensions and waivers.* A video service franchisee may apply to the
7 commission for an extension of any time limit specified in par. (c) 2. or (d) or a waiver
8 of a requirement to comply with par. (d). The commission shall grant the extension
9 or waiver if the video service franchisee demonstrates to the satisfaction of the
10 commission that the video service franchisee has made substantial and continuous
11 efforts to comply with the requirements of this subsection and that the extension or
12 waiver is necessary due to one or more of the following factors:

13 1. The video service franchisee's inability to obtain access to public and private
14 rights-of-way under reasonable terms and conditions.

15 2. Developments and buildings that are not subject to competition because of
16 exclusive service arrangements.

17 3. Developments and buildings that are not accessible using reasonable
18 technical solutions under commercially reasonable terms and conditions.

19 4. Natural disasters.

20 5. Other factors beyond the control of the video service franchisee.

21 (f) *Alternative technologies.* A video service franchisee may satisfy the
22 requirements of this subsection through the use of an alternative technology, other
23 than satellite service, but only if the alternative technology provides access to PEG
24 channels and messages broadcast over the emergency alert system.

1 (g) *Limitations.* Notwithstanding any other provision of this section, a
2 telecommunications video service provider is not required to provide video service
3 outside the provider's basic local exchange service area, and a video service
4 franchisee that is an incumbent cable operator is not required to provide video
5 service outside the area in which the incumbent cable operator provided cable service
6 at the time the commission issued a video service franchise to the incumbent cable
7 operator.

8 (h) *Broadband service.* 1. If a large telecommunications video service
9 franchisee does not provide access to broadband service to 90 percent of the
10 households in the large telecommunications video service franchisee's
11 telecommunications service area by the first day of the 18th month beginning after
12 the effective date of this subdivision [revisor inserts date], the large
13 telecommunications video service franchisee shall pay to the commission, no later
14 than the first day of the 19th month beginning after the effective date of this
15 subdivision [revisor inserts date], a sum of \$7,500,000.

16 2. If a large telecommunications video service franchisee pays the sum to the
17 commission under subd. 1., the commission shall use that sum to make grants to
18 persons to assist in the deployment of broadband service to underserved areas in this
19 state. The commission shall promulgate rules establishing requirements and
20 procedures for making the grants.

21 **(10) ENFORCEMENT.** (a) The commission may investigate possible violations of
22 this section, except sub. (9) (c) or (d), by video service franchisees. If the commission
23 determines that there is a reason to believe that a video service franchisee has
24 violated or is about to violate this section, except sub. (9) (c) or (d), the commission
25 may bring an action against the video service franchisee to obtain, except as provided

1 in sub. (5) (h), injunctive relief and civil penalties for any act, policy, or practice by
2 the video service franchisee that violates this section, except sub. (9) (c) or (d).

3 (b) The commission may suspend or revoke a video service franchisee's video
4 service franchise if the video service franchisee fails to comply with this section or
5 s. 100.209 after a reasonable time to achieve compliance has passed.

6 **(11) FORFEITURES.** (a) Subject to par. (b):

7 1. A video service franchisee that violates this section shall forfeit no more than
8 \$30,000 for each violation, or .00825 percent of the video service franchisee's
9 statewide gross revenue, as calculated under sub. (7) (a), whichever is greater. Each
10 violation of this section is a separate violation, except that if the same act or omission
11 violates more than one provision of this section, only one forfeiture may be imposed
12 for such act or omission. Each day that a violation continues is a separate violation,
13 except that, if the violation was not intentional, did not create substantial risk to the
14 safety of the video service franchisee's employees or customers or the public, and was
15 not intended to cause economic benefits to accrue to the video service franchisee, the
16 forfeiture for a continuing violation may not exceed \$500,000 per year.

17 2. A video service franchisee that violates sub. (9) shall, in addition to the
18 forfeiture under subd. 1., forfeit an amount not exceeding 3 percent of the video
19 service franchisee's total monthly statewide gross revenue, as calculated under sub.
20 (7) (a), for each month from the date of the violation until the date that compliance
21 is achieved.

22 (b) A court may impose a forfeiture under par. (a) only if the commission of
23 justice has given the video service franchisee notice of the violation and the
24 opportunity to remedy the violation within 30 days after receipt of the notice and the
25 video service franchisee has failed to remedy the violation.

1 **SECTION 11.** 66.0421 (title) of the statutes is amended to read:

2 **66.0421** (title) **Access to cable video service.**

3 **SECTION 12.** 66.0421 (1) (a) of the statutes is repealed.

4 **SECTION 13.** 66.0421 (1) (b) of the statutes is repealed.

5 **SECTION 14.** 66.0421 (1) (c) of the statutes is created to read:

6 66.0421 (1) (c) “Video service” has the meaning given in s. 66.0420 (2) (v).

7 **SECTION 15.** 66.0421 (1) (d) of the statutes is created to read:

8 66.0421 (1) (d) “Video service provider” means a municipally regulated cable
9 operator, as defined in s. 66.0420 (2) (o), or a video service franchisee, as defined in
10 s. 66.0420 (2) (y).

11 **SECTION 16.** 66.0421 (2) of the statutes is amended to read:

12 66.0421 (2) INTERFERENCE PROHIBITED. The owner or manager of a multiunit
13 dwelling under common ownership, control or management or of a mobile home park
14 or the association or board of directors of a condominium may not prevent a cable
15 operator video service provider from providing cable video service to a subscriber who
16 is a resident of the multiunit dwelling, mobile home park or of the condominium or
17 interfere with a ~~cable operator~~ video service provider providing cable video service
18 to a subscriber who is a resident of the multiunit dwelling, mobile home park or of
19 the condominium.

20 **SECTION 17.** 66.0421 (3) of the statutes is amended to read:

21 66.0421 (3) INSTALLATION IN MULTIUNIT BUILDING. Before installation, a cable
22 operator video service provider shall consult with the owner or manager of a
23 multiunit dwelling or with the association or board of directors of a condominium to
24 establish the points of attachment to the building and the methods of wiring. A cable
25 operator video service provider shall install facilities to provide cable video service

1 in a safe and orderly manner and in a manner designed to minimize adverse effects
2 to the aesthetics of the multiunit dwelling or condominium. Facilities installed to
3 provide ~~cable~~ video service may not impair public safety, damage fire protection
4 systems or impair fire-resistive construction or components of a multiunit dwelling
5 or condominium.

6 **SECTION 18.** 66.0421 (4) of the statutes is amended to read:

7 66.0421 (4) REPAIR RESPONSIBILITY. A ~~cable operator~~ video service provider is
8 responsible for any repairs to a building required because of the construction,
9 installation, disconnection or servicing of facilities to provide ~~cable~~ video service.

10 **SECTION 19.** 66.0422 (title) of the statutes is amended to read:

11 **66.0422 (title) Cable television Video service, telecommunications, and**
12 **broadband facilities.**

13 **SECTION 20.** 66.0422 (1) (a) of the statutes is repealed.

14 **SECTION 21.** 66.0422 (1) (d) of the statutes is created to read:

15 66.0422 (1) (d) "Video service" has the meaning given in s. 66.0420 (2) (v).

16 **SECTION 22.** 66.0422 (2) (intro.) of the statutes is amended to read:

17 66.0422 (2) (intro.) Except as provided in subs. (3), (3d), (3m), and (3n), no local
18 government may enact an ordinance or adopt a resolution authorizing the local
19 government to construct, own, or operate any facility for providing ~~cable~~ video
20 service, telecommunications service, or broadband service, directly or indirectly, to
21 the public, unless all of the following are satisfied:

22 **SECTION 23.** 66.0422 (3) (b) of the statutes is amended to read:

23 66.0422 (3) (b) A majority of the governing board of the local government votes
24 to submit the question of supporting the operation of the facility for providing ~~cable~~
25 video service, telecommunications service, or Internet access service, directly or

1 indirectly to the public, by the local government to the electors in an advisory
2 referendum and a majority of the voters in the local government voting at the
3 advisory referendum vote to support operation of such a facility by the local
4 government.

5 **SECTION 24.** 66.0422 (3n) of the statutes is amended to read:

6 66.0422 (3n) Subsection (2) does not apply to a local government that, on March
7 1, 2004, was providing ~~cable~~ video service to the public.

8 **SECTION 25.** 70.111 (25) of the statutes is amended to read:

9 70.111 (25) DIGITAL BROADCASTING EQUIPMENT. Digital broadcasting equipment
10 owned and used by a radio station, television station, or ~~cable television system~~ video
11 service network, as defined in s. ~~66.0419 (2) (d)~~ 66.0420 (2) (z).

12 **SECTION 26.** 76.80 (3) of the statutes is amended to read:

13 76.80 (3) “Telecommunications services” means the transmission of voice,
14 video, facsimile or data messages, including telegraph messages, except that
15 “telecommunications services” does not include ~~cable television~~ video service, as
16 defined in s. 66.0420 (2) (v), radio, one-way radio paging or transmitting messages
17 incidental to transient occupancy in hotels, as defined in s. 254.61 (3).

18 **SECTION 27.** 77.52 (2) (a) 12. of the statutes is amended to read:

19 77.52 (2) (a) 12. The sale of cable television system services, or video services,
20 as defined in s. 66.0420 (2) (v), including installation charges.

21 **SECTION 28.** 100.195 (1) (c) 2. of the statutes, as created by 2005 Wisconsin Act
22 458, is amended to read:

23 100.195 (1) (c) 2. Telecommunications services or ~~cable~~ television services.

24 **SECTION 29.** 100.195 (1) (h) 1. of the statutes, as created by 2005 Wisconsin Act
25 458, is repealed and recreated to read:

1 100.195 (1) (h) 1. Video service, as defined in s. 66.0420 (2) (v).

2 **SECTION 30.** 100.209 of the statutes is repealed and recreated to read:

3 **100.209 Video service standards; privacy protection. (1) DEFINITIONS.**

4 In this section:

5 (a) “Basic video service” has the meaning given in s. 66.0420 (2) (b).

6 (b) “Cable or video provider” means a municipally regulated cable operator or
7 a video service franchisee.

8 (c) “Municipality” means a city, village, or town.

9 (d) “Municipally regulated cable operator” has the meaning given in s. 66.0420
10 (2) (o).

11 (e) “Normal business hours” means, with respect to a business, those hours
12 during which most similar businesses in a municipality are open to serve customers.

13 (f) “Normal operating conditions” means, with respect to a video provider, those
14 service conditions that are within the control of the video programming provider.
15 “Normal operating conditions” includes special promotions; pay-per-view events;
16 regular, peak, or seasonal demand periods; and maintenance or upgrade of a service
17 network. “Normal operating conditions” does not include natural disasters, civil
18 disturbances, power outages, telephone network outages, or severe or unusual
19 weather conditions.

20 (g) “Service interruption” means the loss of picture or sound on one or more
21 video channels.

22 (h) “Service line drop” means the point of connection between a premises and
23 the facilities of a cable or video provider that enables the premises to receive video
24 service.

1 (i) “Video programming provider” means a multichannel video programming
2 distributor, as defined in 47 USC 522 (13), but does not include a landlord whose
3 provision of video service is limited to providing video service to a single-family home
4 or other residential dwelling consisting of 4 units or less.

5 (j) “Video service” means multiple channels of video programming, as defined
6 in 47 USC 522 (20).

7 (k) “Video service area” has the meaning given in s. 66.0420 (2) (w).

8 (L) “Video service franchisee” has the meaning given in s. 66.0420 (2) (y).

9 (m) “Video service network” has the meaning given in s. 66.0420 (2) (z).

10 **(2) APPLICABILITY.** Notwithstanding sub. (1) (b), a video programming provider
11 that provides video service through a master antenna television, satellite master
12 antenna television, direct broadcast satellite, or multipoint distribution service is
13 subject to this section only to the extent permitted by federal law.

14 **(3) GENERAL CUSTOMER SERVICE STANDARDS.** (a) *In general.* Video programming
15 providers shall establish general standards related to customer service, including
16 relating to all of the following:

- 17 1. Installation, disconnection, service, and repair obligations.
- 18 2. Appointment hours and employee identification requirements.
- 19 3. Customer service telephone numbers and hours.
- 20 4. Procedures for billing, charges, deposits, refunds, and credits.
- 21 5. Procedures for termination of service.
- 22 6. Notice of deletion of programming service.
- 23 7. Changes related to transmission of programming.
- 24 8. Changes or increases in rates.
- 25 9. The use and availability of parental control or lock-out devices.

1 10. If applicable, the use and availability of an A/B switch.

2 11. Complaint and bill dispute resolution procedures.

3 12. Rights and remedies available to consumers if the video programming
4 provider does not materially meet their customer service standards.

5 13. Special services for customers with visual, hearing, or mobility disabilities.

6 (b) *Public availability.* A video programming provider shall make available to
7 the public, and display clearly and conspicuously on its Internet Web site, the video
8 programming providers' rates for each level of service, rules, and regulations, and
9 the standards established under par. (a). If a promotional price or a price for a
10 specified period of time is offered, the programming video provider shall clearly and
11 conspicuously display the promotional price or price for the specified period of time
12 together with the price that applies at the end of the promotional period or specified
13 period of time.

14 (c) *Notice.* A video programming provider shall provide notice concerning its
15 general customer service standards to all customers. The notice shall be offered
16 when service is first activated and annually thereafter. The information in the notice
17 shall include all of the standards established under par. (a) and all of the following:

18 1. A listing of services offered by the video programming provider, which clearly
19 describes programming for all services and all levels of service.

20 2. The rates for all services and levels of service.

21 3. Telephone numbers through which customers may subscribe to, change, or
22 terminate service, request customer service, or seek general or billing information.

23 4. Instructions on the use of the video services.

1 5. A description of rights and remedies that the video programming provider
2 shall make available to their customers if the video programming provider does not
3 materially meet the general customer service standards described in this paragraph.

4 **(4) GENERAL CUSTOMER SERVICE OBLIGATIONS.** (a) A video programming provider
5 shall render reasonably efficient service, promptly make repairs, and interrupt
6 service only as necessary and for good cause, during periods of minimum use of the
7 system and for no more than 24 hours.

8 (b) All service representatives or any other person who contacts customers or
9 potential customers on behalf of a video programming provider shall have a visible
10 identification card with their name and photograph and shall orally identify
11 themselves upon first contact with a customer. Customer service representatives
12 shall orally identify themselves to callers immediately following the greeting during
13 each telephone contact with the public.

14 (c) A video programming provider shall do one of the following:

15 1. Maintain a customer service facility that is located within a municipality in
16 which the video programming provider provides video service and that is staffed by
17 customer service representatives that have the capacity to accept payment; adjust
18 bills; respond to repair, installation, reconnection, disconnection, or other service
19 calls; and distribute or receive converter boxes, remote control units, digital stereo
20 units, or other equipment related to the provision of video service.

21 2. Provide customers with bill payment facilities through retail, financial, or
22 other commercial institutions located within the boundaries of a municipality.

23 3. Provide an address, toll-free telephone number, or electronic address to
24 accept bill payments and correspondence, and provide secure collection boxes that

1 receive bill payments and returned equipment and that provide a printed receipt
2 when items are deposited.

3 4. Provide an address, toll-free telephone number, or electronic address to
4 accept bill payments and correspondence, and provide a method for customers to
5 return equipment to the video programming provider at no cost to the customer.

6 **(5) CUSTOMER CONTACTS.** In each contact with a customer, the service
7 representatives of a video programming provider, or any other person who contacts
8 customers or potential customers on behalf of the video programming provider, shall
9 state the estimated cost of the service, repair, or installation orally prior to delivery
10 of the service or before any work is performed, and shall provide the customer with
11 an oral statement of the total charges before terminating the telephone call or other
12 contact in which a service is ordered, whether in person or over the Internet, and
13 shall provide a written statement of the total charges before leaving the location at
14 which the work was performed. If the cost of service is a promotional price or is for
15 a limited period of time, the cost of service at the end of the promotion or limited
16 period of time shall be disclosed.

17 **(6) NOTICES.** A video programming provider shall provide customers a
18 minimum of 30 days' written notice before increasing rates or eliminating
19 transmission of programming and shall submit the notice to the municipality in
20 advance of distribution to customers, except that if the elimination of transmission
21 of programming is outside the control of the video programming provider, the video
22 programming provider shall use reasonable efforts to provide as much notice as
23 possible and any rate decrease related to the elimination of transmission of
24 programming shall be applied as of the date of the elimination.

1 **(7) RECEPTION.** A video programming provider shall provide clear visual and
2 audio reception that meets or exceeds applicable federal communications
3 commission technical standards. If a customer experiences poor video or audio
4 reception due to the equipment of the video programming provider, the video
5 programming provider shall promptly repair the problem at its own expense.

6 **(8) BILLS, PAYMENT AND TERMINATION.** (a) A video programming provider shall
7 render monthly bills that are clear, accurate, and understandable.

8 (b) Every residential customer who pays bills directly to a video programming
9 provider shall have at least 28 days from the date of the bill to pay the listed charges.

10 (c) A video programming provider shall promptly post customer payments. If
11 payment is sent by United States mail, payment is considered paid on the date it is
12 postmarked.

13 (d) A video programming provider may not terminate residential service for
14 nonpayment of a bill unless the video programming provider furnishes notice of the
15 delinquency and impending termination at least 21 days prior to the proposed
16 termination. Notice of proposed termination shall be mailed to the customer to whom
17 service is billed. Notice of proposed termination shall not be mailed until the 29th
18 day after the date of the bill for services. Notice of delinquency and impending
19 termination may be part of a billing statement only if the notice is presented in a
20 different color than the bill and is designed to be conspicuous. A video programming
21 provider may not assess a late fee prior to the 29th day after the date of the bill for
22 service.

23 (e) A video programming provider shall include with every notice of impending
24 termination the name and address of the customer; the amount of delinquency; the
25 date on which payment is required to avoid termination; and the telephone number

1 of the video programming provider's service representative to make payment
2 arrangements and to provide additional information about any charges for failure
3 to return equipment and for reconnection. No customer may be charged a fee for
4 termination or disconnection of service, regardless of whether the customer or the
5 video programming provider initiated termination or disconnection.

6 (f) A video programming provider may terminate service only on those days
7 when the customer is able to reach, in person or by telephone, a service
8 representative of the video programming provider.

9 (g) Any service terminated by a video programming provider without good
10 cause shall be restored without any reconnection fee, charge, or penalty. Good cause
11 for termination includes failure to pay a bill by the date specified in the notice of
12 impending termination, payment by check for which there are insufficient funds,
13 theft of service, abuse of equipment or personnel, or other similar customer actions.

14 (h) A video programming provider shall cease charging a customer for any or
15 all services within one business day after it receives a request to immediately
16 terminate service or on the day requested by the customer if such a date is at least
17 5 days from the date requested by the customer. Nothing in this paragraph shall
18 prohibit a video programming provider from billing for charges that the customer
19 incurs prior to the date of termination. A video programming provider shall issue
20 a credit, a refund, or return a deposit within 10 business days after the close of the
21 customer's billing cycle following the request for termination or the return of
22 equipment, if any, whichever is later.

23 (i) A video programming provider shall allow its customers to disconnect their
24 service at any time within the first 60 days after subscribing to or upgrading the
25 service. Within such 60-day period, a video programming provider shall not charge

1 or impose any fees or penalties on the customer for disconnecting service, including
2 any installation charge or early termination charge, except that a video
3 programming provider may impose a charge or fee to offset any rebates or credits
4 received by the customer, and may impose monthly service or maintenance charges,
5 including pay-per-view and premium services charges, during such 60-day period.

6 (j) A video programming provider shall guarantee customer satisfaction for
7 new or upgraded service and the customer shall receive a pro rata credit in an
8 amount equal to the pro rata charge for the remaining days of service being
9 disconnected or replaced upon the customers request if the customer is dissatisfied
10 with the service and requests to discontinue the service within the first 60 days after
11 subscribing to the upgraded service.

12 **(9) RESPONSE TO CUSTOMER INQUIRIES.** (a) A video programming provider shall
13 maintain a toll-free telephone access line that is available to customers 24 hours a
14 day, 7 days a week, to accept calls regarding installation, termination, service, and
15 complaints. Trained, knowledgeable, and qualified service representatives of a video
16 programming provider shall be available to respond to customer telephone inquiries
17 during normal business hours. Customer service representatives shall be able to
18 provide credits, waive fees, schedule appointments, and change billing cycles. Any
19 difficulties that cannot be resolved by the customer service representatives shall be
20 referred to a supervisor who shall make best efforts to resolve the issue immediately.
21 If the supervisor does not resolve the issue to the customer's satisfaction, the
22 customer shall be informed of the video programming provider's complaint
23 procedures and procedures for billing dispute resolutions and given a description of
24 the rights and remedies available to customers to enforce the terms of this section,

1 including the customer's rights to have the complaint reviewed by the municipality
2 to request mediation, and to review in a court.

3 (b) After normal business hours, the toll-free telephone access line specified
4 in par. (a) may be answered by a service or an automated response system, including
5 an answering machine. Inquiries received by telephone or electronic mail after
6 normal business hours shall be responded to by a trained service representative on
7 the next business day. A video programming provider shall respond to a written
8 billing inquiry within 10 days of receipt of the inquiry.

9 (c) A video programming provider shall provide customers seeking
10 nonstandard installations with a total installation cost estimate and an estimated
11 date of completion. The actual charge to the customer may not exceed 110 percent
12 of the estimated cost without the written consent of the customer.

13 (d) If a video programming provider receives notice that an unsafe condition
14 exists with respect to its equipment, the video programming provider shall
15 investigate such condition immediately, and shall take such measures as are
16 necessary to remove or eliminate the unsafe condition. The video programming
17 provider shall promptly inform the municipality in which the unsafe condition
18 exists, but no later than 2 hours after it receives notification of an unsafe condition
19 that it has not remedied.

20 (e) 1. Except as provided in subd. 2., under normal operating conditions,
21 telephone answer time by a video programming provider's customer representative,
22 including wait time, may not exceed 30 seconds when the connection is made. Except
23 as provided in subd. 2., if the call needs to be transferred, transfer time shall not
24 exceed 30 seconds.

1 2. The standards under subd. 1. shall be met no less than 90 percent of the time
2 under normal operating conditions, measured on a quarterly basis.

3 (f) Under normal operating conditions, a video programming provider's
4 customers may not receive a busy signal more than 3 percent of the time.

5 **(10) INSTALLATIONS, OUTAGES, AND SERVICE CALLS.** Under normal operating
6 conditions, a video programming provider shall meet each of the following standards
7 no less than 95 percent of the time measured on a quarterly basis:

8 (a) Standard installations shall be performed within 7 business days after an
9 order has been placed. For purposes of this paragraph, "standard installations"
10 means those installations that are located no more than 125 feet away from the video
11 programming provider's existing distribution system.

12 (b) Excluding conditions beyond the control of the video programming provider,
13 the video programming provider shall do all of the following:

14 1. Begin working on service interruptions promptly and in no event later than
15 24 hours after the service interruption is reported by the customer or otherwise
16 becomes known to the video programming provider.

17 2. Begin actions to correct other service problems the next business day after
18 notification of the service problem.

19 3. Correct service interruptions and other service problems within 48 hours
20 after service interruptions and other service problems are reported by customers.

21 (c) A video programming provider shall schedule appointments with customers
22 for installations, service calls, and other installation activities for a specific time, or
23 within a time block that does not exceed 4 hours, except that a video programming
24 provider may otherwise schedule such appointments as specified by the customer for
25 the customer's convenience.

1 (d) A video programming provider may not cancel an appointment with a
2 customer after 5:00 p.m. on the business day prior to the scheduled appointment.
3 If a video programming provider's representative is running late for an appointment
4 with a customer and is not be able to keep the appointment as scheduled, the video
5 programming provider shall contact the customer and, as necessary, reschedule the
6 appointment at a time that is convenient for the customer, even if the rescheduled
7 appointment is not within normal business hours.

8 **(11) PUBLIC BENEFIT OBLIGATION.** (a) In this subsection, "eligible building"
9 means a building used by a municipality for governmental purposes; a public library;
10 or a public primary or secondary school, including a charter school.

11 (b) 1. Except as otherwise provided in this subsection, a video programming
12 provider shall provide a free service line drop and free basic video service to all
13 current and future eligible buildings within one of the following:

14 a. If the cable or video provider is a municipally regulated cable operator, the
15 municipality that grants a cable franchise to the cable or video provider.

16 b. If the cable or video provider is a video service franchisee, the video service
17 area of the cable or video provider.

18 2. Service provided under subd. 1. shall be used in a manner consistent with
19 the governmental purpose of the eligible building and shall not be resold.

20 (c) Paragraph (b) only applies to those cable or video providers whose video
21 service networks are located in a manner that is capable of providing video service
22 to eligible buildings and whose video service is generally available to residential
23 customers in the municipality in which the eligible building is located.

24 (d) The burden of providing service required under par. (b) at an eligible
25 building shall be shared by all cable and video providers whose video service

1 networks are located in a manner that is capable of providing video service to the
2 eligible buildings and shall be shared in an equitable and competitively neutral
3 manner. The cable or video providers operating in a municipality shall determine
4 amongst themselves who will provide the service to an eligible building required
5 under par. (b). If the cable or video providers are unable to reach agreement on the
6 determination, the municipality in which the eligible building is located shall
7 determine which cable or video providers must serve the eligible building. A
8 municipality may not require duplicative installations by more than one cable or
9 video provider at an eligible building.

10 (e) A municipality shall bear the costs of any inside wiring, or video equipment
11 costs, that are incurred in providing service required under par. (b) at an eligible
12 building, if the cable or video provider does not ordinarily provide the wiring or
13 equipment at no cost to customer's of the video programming provider's basic video
14 service.

15 **(12) REPORTS.** (a) A video programming provider shall make an annual report
16 to the department, the municipality in which the video programming provider
17 provides video service, and the public service commission regarding its compliance
18 with this section. The report shall include documentation that is sufficient to
19 demonstrate compliance with subs. (9) (e) and (f) and (10) (a) and (b). The report shall
20 also identify the number of complaints the video programming provider received
21 during the prior year in the state and specify the number of such complaints related
22 to each of the following:

- 23 1. Billing, charges, refunds, or credits.
- 24 2. Installation or termination of service.
- 25 3. Quality of service and repair.

1 4. Programming.

2 5. Other complaints not specified in subds. 1. to 4.

3 (b) Information in the report under par. (a) shall be broken down for each
4 municipality or telephone exchange in which the cable or video provider has
5 customers.

6 (c) The report under par. (a) is first due one year after a video programming
7 provider begins to offer video service or on the first day of the 12th month beginning
8 after the effective date of this paragraph [revisor inserts date], whichever is later.

9 **(13) RATES; CHARGES; CONTRACTS.** (a) To the extent consistent with federal law:

10 1. A video programming provider shall offer the lowest-cost basic video service
11 as a stand-alone service to residential customers at reasonable rates. A video
12 programming provider shall not require the subscription to any service other than
13 the lowest-cost basic service or to any telecommunications or information service,
14 as a condition of access to video service, including programming offered on a per
15 channel or per program basis. A video programming provider shall not discriminate
16 between customers of the lowest-cost basic service, customers of other video
17 services, and other customers with regard to the rates charged for video
18 programming offered on a per channel or per program basis.

19 2. A video programming provider shall ensure that charges for changes in a
20 customer's selection of services or equipment shall be based on the cost of such
21 change and shall not exceed nominal amounts if the system's configuration permits
22 changes in service tier selection to be effected solely by coded entry on a computer
23 terminal or by other similarly simple method.

24 3. A video programming provider shall have a rate structure for the provision
25 of video service that is uniform throughout the area within the boundaries of a

1 municipality, except that a video programming provider may provide bulk discounts
2 to multiple dwelling units or reasonable discounts to senior citizens or other
3 economically disadvantaged groups.

4 4. A video programming provider may not charge a customer for any service or
5 equipment that the customer has not explicitly requested. For purposes of this
6 subdivision, a customer's failure to refuse a video programming provider's proposal
7 to provide service or equipment is not an explicit request for such service or
8 equipment.

9 (b) No contract or service offering video services or any bundle including such
10 services may be for a term longer than one year. If a contract or service offering is
11 made for a specified term at a discounted price, no termination fee may exceed the
12 amount of the discount from which the customer benefited.

13 **(14) IMPAIRED CUSTOMERS.** A video programming provider may not discriminate
14 in the provision of services for the hearing and visually impaired and shall comply
15 with 47 USC 613. A video programming provider shall deliver and pick up, or provide
16 customers with prepaid shipping and packaging for the return of, converters and
17 other necessary equipment at the home of customers with disabilities. A video
18 programming provider shall provide free use of a converter or remote control unit to
19 mobility impaired customers.

20 **(15) OBSCENE OR INDECENT PROGRAMMING.** (a) To the extent consistent with
21 federal law, a video programming provider shall comply with 47 USC 532 (h) and (j).
22 A video programming provider may not exercise any editorial control over any
23 programming or in any other way consider the content of programming in
24 determining whether to transmit programming, except that a video programming
25 provider may refuse to transmit any leased access program or portion of a leased

1 access program which contains obscenity, indecency, or nudity and may consider
2 such content to the minimum extent necessary to establish a reasonable price for the
3 commercial use of designated channel capacity by a person that is not an affiliate of
4 the video programming provider. A video programming provider may enforce
5 prospectively a written and published policy of prohibiting programming that the
6 video programming provider reasonably believes describes or depicts sexual or
7 excretory activities or organs in a patently offensive manner as measured by
8 contemporary community standards.

9 (b) A video programming provider shall, without charge, fully scramble or
10 otherwise fully block the audio and video programming of any channel requested by
11 the customer.

12 (c) In providing sexually explicit adult programming or other programming
13 that is indecent on any channel of a video programming provider's service that is
14 primarily dedicated to sexually oriented programming, the video programming
15 provider shall fully scramble or otherwise fully block the video and audio portion of
16 such channel so that a nonsubscriber to such channel or programming does not
17 receive it.

18 (d) For purposes of pars. (b) and (c), "scramble" means to rearrange the content
19 of the signal of programming so that the programming cannot be viewed or heard in
20 an understandable manner.

21 **(16) SERVICE AVAILABILITY LISTING.** A video programming provider shall
22 maintain a listing, specific to the level of street address, of the areas where its video
23 services are available. A video programming provider shall inform customers who
24 inquire about purchasing video service about whether the service is currently
25 available to them at their specific location.

1 **(17) PRIVACY PROTECTIONS.** A video programming provider may not disclose the
2 name, address, telephone number, or other personally identifying information of a
3 video service customer to be used in mailing lists or to be used for other commercial
4 purposes not reasonably related to the conduct of its business, unless the video
5 programming provider has provided to the customer a notice, separately or included
6 in any other customer service notice, that clearly and conspicuously describes the
7 customer’s ability to prohibit the disclosure. A video programming provider shall
8 provide an address and telephone number for a customer to use without toll charge
9 to prevent disclosure of the customer’s name and address in mailing lists or for other
10 commercial purposes not reasonably related to the conduct of its business to other
11 businesses or affiliates of the video programming provider. A video programming
12 provider shall comply with all other privacy laws, including 47 USC 551, that are in
13 effect on the effective date of this subsection [revisor inserts date].

14 **(18) CONSUMER COMPLAINTS; MEDIATION.** A video programming provider shall
15 implement an informal process for handling inquiries from municipalities and
16 customers concerning billing issues, service issues, privacy concerns, and other
17 consumer complaints. If an issue is not resolved through such informal process, a
18 municipality or customer may request nonbinding mediation with the video
19 programming provider, with each party bearing its own costs of such mediation.
20 Selection of a mediator shall be by mutual agreement and preference shall be given
21 to mediation services that do not charge a consumer for their services. If the informal
22 process does not produce a satisfactory result to the customer or municipality,
23 enforcement may be pursued as provided in sub. (19) (f).

24 **(19) ENFORCEMENT.** (a) The department may do any of the following:

1 1. Exercise its authority under ss. 93.14, 93.15, and 93.16 to investigate
2 violations of this section.

3 2. Commence an action in the name of the state to restrain by temporary
4 injunction a violation of this section. Before entry of a final judgment, the court may
5 make any necessary orders to restore to a person any pecuniary loss suffered by the
6 person because of the violation.

7 3. Except as provided in subd. 4., commence an action in the name of the state
8 to recover a forfeiture to the state of not less than \$100 nor more than \$10,000 for
9 each violation of this section.

10 4. Commence an action in the name of the state to recover a forfeiture to the
11 state of not more than \$50,000 for a person's first violation of sub. (17) and of not more
12 than \$100,000 for each 2nd or subsequent violation of sub. (17) by a person.

13 5. After public hearing, issue a special order under s. 93.18 against a video
14 programming provider enjoining the provider from employing practices that violate
15 this section and requiring the provider to employ practices or take actions that are
16 determined by the department to be in compliance with this section.

17 (b) A municipality may enforce this section with respect to complaints received
18 from residents within the municipality, but the municipality may not impose or
19 require compliance with any additional or different customer service or performance
20 standards than those specified in this section.

21 (c) A municipality may enact an ordinance that provides a schedule of
22 forfeitures for any material violation of this section by video programming providers
23 that are in addition to the penalties provided under this chapter, except as follows:

24 1. No forfeitures may be assessed for a material violation if it is out of the
25 reasonable control of a video programming provider or its affiliate.

1 2. The forfeitures shall apply on a competitively neutral basis to all providers
2 of video service within the municipality.

3 3. The forfeitures may not exceed \$750 for each day of the material violation,
4 and may not exceed \$25,000 for each occurrence of a material violation per customer.

5 (d) The department or a municipality shall give a video programming provider
6 written notice of any alleged material violations of this section and allow such
7 provider at least 30 days from receipt of the notice to remedy the specified material
8 violation.

9 (e) For purposes of this subsection, “material violation” means any substantial
10 failure of a video programming provider to comply with this section and, for purposes
11 of assessing forfeitures, a material violation is considered to have occurred for each
12 day that a material violation has not been remedied by a video programming
13 provider after the expiration of the period specified in par. (d).

14 (f) The department and, subject to sub. (18), a municipality or customer may
15 bring an action against a video programming provider for violation of this section,
16 except that a municipality may bring an action only if a customer residing in the
17 municipality is adversely affected by the violation and a customer may bring an
18 action only if the customer is adversely affected by the violation. A video
19 programming provider may bring an action to review a municipality’s assessment of
20 forfeitures against the video programming provider. A municipality is immune from
21 civil liability for its acts or omissions related to the enforcement or review of any
22 terms, conditions, or rights under this section, except that a court may require the
23 return of any forfeiture that the municipality incorrectly assessed against a video
24 programming provider.

1 **(20) CREDITS.** (a) A video programming provider shall credit customers for
2 violations of this section in the amounts specified in par. (b). The credits shall be
3 applied on the statement issued to the customer for the next monthly billing cycle
4 following the violation or following the discovery of the violation. A video
5 programming provider is responsible for providing the credits and a customer is not
6 required to request the credit. If a customer is no longer taking service from a video
7 programming provider, the video programming provider shall refund the credit
8 amount to the customer by check within 30 days of the termination of service. A
9 municipality may enact an ordinance that requires a video programming provider
10 to give credits directly to customers for violating this section, if the ordinance applies
11 on a competitively neutral basis to all video programming providers in the
12 municipality, and except that the credits may not exceed the credits specified in par.
13 (b).

14 (b) A video programming provider shall give customers the following credits for
15 the following violations of this section:

16 1. Failure to provide notice of customer service standards upon initiation of
17 service, \$25.

18 2. Failure to install service within 7 days, waiver of 50 percent of the
19 installation fee or the monthly fee for the lowest-cost basic service, whichever is
20 greater.

21 3. Failure to install service within 14 days, waiver of 100 percent of the
22 installation fee or the monthly fee for the lowest-cost basic service, whichever is
23 greater.

1 4. Failure to remedy service interruptions or poor video or audio service quality
2 within 48 hours, a pro rata credit of total regular monthly charges equal to the
3 number of days of the service interruption.

4 5. Failure to keep an appointment or to notify the customer prior to the close
5 of business on the business day prior to the scheduled appointment, \$25.

6 6. Violation of privacy protections, \$150.

7 7. Failure to comply with scrambling requirements, \$50 per month.

8 8. Violation of customer service and billing standards in sub. (8) or (9), \$25 per
9 violation.

10 9. Violation of the prohibition under sub. (13) (a) 1. against requiring
11 subscription to other services as a condition of access to video service, \$25 per month.

12 **SECTION 31.** 100.261 (3) (c) of the statutes is amended to read:

13 100.261 (3) (c) The amount credited under par. (b) to the appropriation account
14 under s. 20.115 (1) (jb) may not exceed \$185,000 in each fiscal year.

15 **SECTION 32.** 134.43 of the statutes, as affected by 2007 Wisconsin Act 20, is
16 repealed.

17 **SECTION 33.** 182.017 (1) of the statutes is amended to read:

18 182.017 (1) RIGHT-OF-WAY FOR. Any domestic corporation organized to furnish
19 telegraph or telecommunications service or transmit heat, power or electric current
20 to the public or for public purposes, an any independent system operator, as defined
21 in s. 196.485 (1) (d), an any independent transmission owner, as defined in s. 196.485
22 (1) (dm), ~~or a~~ any cooperative association organized under ch. 185 or 193 to furnish
23 telegraph or telecommunications service ~~or a~~ any cooperative organized under ch.
24 185 to transmit heat, power or electric current to its members, any municipally
25 regulated cable operator, as defined in s. 66.0420 (2) (o), and any video service

1 franchisee, as defined in s. 66.0420 (2) (y) may, subject to ss. 30.44 (3m), 30.45, 86.16
2 and 196.491 (3) (d) 3m. and to reasonable regulations made by any city, village or
3 town through which its transmission lines or systems may pass, construct and
4 maintain such lines or systems with all necessary appurtenances in, across or
5 beneath any public highway or bridge or any stream or body of water, or upon any
6 lands of any owner consenting thereto, and for such purpose may acquire lands or
7 the necessary easements; and may connect and operate its lines or system with other
8 lines or systems devoted to like business, within or without this state, and charge
9 reasonable rates for the transmission and delivery of messages or the furnishing of
10 heat, power or electric light.

11 **SECTION 34.** 196.01 (1g) of the statutes is amended to read:

12 196.01 (1g) “Basic local exchange service” means the provision to residential
13 customers of an access facility, whether by wire, cable, fiber optics or radio, and
14 essential usage within a local calling area for the transmission of high-quality
15 2-way interactive switched voice or data communication. “Basic local exchange
16 service” includes extended community calling and extended area service. “Basic
17 local exchange service” does not include additional access facilities or any
18 discretionary or optional services that may be provided to a residential customer.
19 “Basic local exchange service” does not include cable television service or services
20 provided by a commercial mobile radio service provider.

21 **SECTION 35.** 196.01 (1p) of the statutes is repealed and recreated to read:

22 196.01 (1p) “Cable service” has the meaning given in 47 USC 522 (6).

23 **SECTION 36.** 196.01 (9m) of the statutes is amended to read:

24 196.01 (9m) “Telecommunications service” means the offering for sale of the
25 conveyance of voice, data or other information at any frequency over any part of the

1 electromagnetic spectrum, including the sale of service for collection, storage,
2 forwarding, switching and delivery incidental to such communication and including
3 the regulated sale of customer premises equipment. “Telecommunications service”
4 does not include cable ~~television~~ service or broadcast service.

5 **SECTION 37.** 196.01 (12g) of the statutes is created to read:

6 196.01 (12g) “Video service” has the meaning given in s. 66.0420 (2) (v).

7 **SECTION 38.** 196.01 (12m) of the statutes is created to read:

8 196.01 (12m) “Video service franchisee” has the meaning given in s. 66.0420
9 (2) (y).

10 **SECTION 39.** 196.01 (12r) of the statutes is created to read:

11 196.01 (12r) “Video service provider” means a municipality regulated cable
12 operator, as defined in s. 66.0420 (2) (o), or a video service franchisee.

13 **SECTION 40.** 196.04 (4) (a) (intro.) and 2. (intro.) of the statutes are
14 consolidated, renumbered 196.04 (4) (a) (intro.) and amended to read:

15 196.04 (4) (a) (intro.) In this subsection: ~~2.~~ “Sewerage, sewerage system
16 operator” means any of the following:

17 **SECTION 41.** 196.04 (4) (a) 1. of the statutes is repealed.

18 **SECTION 42.** 196.04 (4) (a) 2. a. to e. of the statutes are renumbered 196.04 (4)
19 (a) 1. to 5.

20 **SECTION 43.** 196.04 (4) (b) of the statutes is amended to read:

21 196.04 (4) (b) If the parties cannot agree and the commission finds that public
22 convenience and necessity or the rendition of reasonably adequate service to the
23 public requires that a public utility, telecommunications provider, sewerage system
24 operator, or ~~cable operator~~ video service provider be permitted to extend its lines on,
25 over or under the right-of-way of any railroad, or requires that the tracks of any

1 railroad be extended on, over or under the right-of-way of any public utility,
2 telecommunications provider, sewerage system operator, or ~~cable operator~~ video
3 service provider, the commission may order the extension by the public utility,
4 telecommunications provider, sewerage system operator, ~~cable operator~~ video
5 service provider, or railroad on, over or under the right-of-way of the other if it will
6 not materially impair the ability of the railroad, telecommunications provider,
7 sewerage system operator, ~~cable operator~~ video service provider, or public utility, on,
8 over or under whose right-of-way the extension would be made, to serve the public.
9 The commission shall prescribe lawful conditions and compensation which the
10 commission deems equitable and reasonable in light of all the circumstances.

11 **SECTION 44.** 196.195 (5) of the statutes is amended to read:

12 196.195 (5) COMMISSION ACTION. If after the proceedings under subs. (2), (3) and
13 (4) the commission has determined that effective competition exists in the market
14 for the telecommunications service which justifies a lesser degree of regulation and
15 that lesser regulation in that market will serve the public interest, the commission
16 may, by order, suspend any of the following provisions of law, except as provided
17 under subs. (7) and (8): ch. 201 and s. 196.02 (2); s. 196.05; s. 196.06; s. 196.07; s.
18 196.09; s. 196.10; s. 196.12; s. 196.13 (2); s. 196.19; tariffing requirements under s.
19 196.194; s. 196.196 (1) or (5); s. 196.20; ~~s. 196.204 (7)~~; s. 196.21; s. 196.22; s. 196.26;
20 s. 196.28; s. 196.37; s. 196.49; s. 196.52; s. 196.58; s. 196.60; s. 196.604; s. 196.77; s.
21 196.78; s. 196.79; and s. 196.805.

22 **SECTION 45.** 196.203 (1m) of the statutes is amended to read:

23 196.203 (1m) Any person claiming to be a cable television telecommunications
24 service provider under this section shall annually file with the commission any

1 information required by the commission to determine the gross income of the person
2 which is derived from the operation of a cable television system.

3 **SECTION 46.** 196.203 (3) (b) (intro.) of the statutes is amended to read:

4 196.203 (3) (b) (intro.) The commission may not deny a petition filed under par.
5 (a) by a provider of cable ~~television~~ service for alternative telecommunications utility
6 status in a particular geographical area as not being in the public interest if basic
7 local exchange service is provided in the same geographical area by any of the
8 following:

9 **SECTION 47.** 196.203 (3) (b) 2. of the statutes is amended to read:

10 196.203 (3) (b) 2. Subject to par. (c), a telecommunications utility with 50,000
11 or less access lines in use in this state which also provides cable ~~television~~ service in
12 that geographical area, if provision of cable ~~television~~ service began after September
13 1, 1994.

14 **SECTION 48.** 196.203 (3) (c) of the statutes is amended to read:

15 196.203 (3) (c) Paragraph (b) 2. shall not apply if the telecommunications
16 utility's provision of cable ~~television~~ service is limited to the provision of satellite
17 cable programming, as defined in s. 943.47 (1) (b).

18 **SECTION 49.** 196.203 (3) (d) of the statutes is amended to read:

19 196.203 (3) (d) Section 196.50 (1) (b) applies to an alternative
20 telecommunications utility except for a provider of cable ~~television~~ service.

21 **SECTION 50.** 196.203 (3) (e) 1. (intro.) of the statutes is amended to read:

22 196.203 (3) (e) 1. (intro.) If a provider of cable ~~television~~ service files a petition
23 under par. (a) for alternative telecommunications status to offer local exchange
24 service, as defined in s. 196.50 (1) (b) 1., in a geographical area served by a
25 telecommunications utility with less than 50,000 access lines in use in this state on

1 September 1, 1994, or at any time thereafter, the commission may not deny the
2 petition as not being in the public interest and shall do any of the following:

3 **SECTION 51.** 196.204 (7) of the statutes is repealed.

4 **SECTION 52.** 196.44 (1) of the statutes is amended to read:

5 196.44 (1) DUTY OF COMMISSION. The commission shall inquire into the neglect
6 or violation of the laws of this state by public utilities and of s. 66.0420, except for s.
7 66.0420 (9) (c) and (d), by video service franchisees, or by their officers, agents or
8 employees or by persons operating public utilities or video service franchisees, and
9 shall enforce all laws relating to public utilities, and report all violations to the
10 attorney general.

11 **SECTION 53.** 196.44 (2) of the statutes is amended to read:

12 196.44 (2) DUTIES OF ATTORNEY GENERAL AND DISTRICT ATTORNEYS. Upon request
13 of the commission, the attorney general or the district attorney of the proper county
14 shall aid in any investigation, hearing or trial had under this chapter, and shall
15 institute and prosecute all necessary actions or proceedings for the enforcement of
16 s. 66.0420, except for s. 66.0420 (9) (c) and (d), and all laws relating to public utilities
17 or telecommunications providers, and for the punishment of all violations.

18 **SECTION 54.** 196.50 (1) (b) 2. e. of the statutes is amended to read:

19 196.50 (1) (b) 2. e. The holder of the permit and the applicant are both providers
20 of ~~cable television~~ video service, if the holder's provision of ~~cable television~~ video
21 service began after September 1, 1994. ~~This subd. 2. e. does not apply if the holder's~~
22 ~~provision of cable television service is limited to the provision of satellite cable~~
23 ~~programming, as defined in s. 943.47 (1) (b).~~

24 **SECTION 55.** 196.50 (1) (c) of the statutes is amended to read:

1 196.50 (1) (c) Any provision in an agreement or municipal franchise that
2 prohibits entry into the telecommunications or ~~cable television~~ video services market
3 after September 1, 1994, is void. ~~Paragraph (b) and this paragraph do not invalidate~~
4 ~~an ordinance enacted under s. 66.0419 which requires a provider of cable television~~
5 ~~services to obtain a franchise before offering those services.~~

6 **SECTION 56.** 196.85 (1m) (b) of the statutes is amended to read:

7 196.85 (1m) (b) For the purpose of direct assessment under sub. (1) of expenses
8 incurred by the commission in connection with its activities under s. 196.04 (4), the
9 term “public utility” includes a ~~cable operator, as defined in s. 66.0419 (2) (b)~~ video
10 service provider.

11 **SECTION 57.** 196.85 (1m) (d) of the statutes is created to read:

12 196.85 (1m) (d) For the purpose of direct assessment under sub. (1) of expenses
13 incurred by the commission in connection with its activities under s. 66.0420, the
14 term “public utility” includes an applicant for a video service franchise, as defined
15 in s. 66.0420 (2) (x), or a video service franchisee, as defined in s. 66.0420 (2) (y).

16 **SECTION 58.** 943.46 (title) of the statutes is amended to read:

17 **943.46** (title) **Theft of ~~cable television~~ video service.**

18 **SECTION 59.** 943.46 (1) (a) of the statutes is renumbered 943.46 (1) (c) and
19 amended to read:

20 943.46 (1) (c) “~~Cable television~~ Video service” has the meaning given in s.
21 ~~196.01 (1p).~~ “~~Cable television~~ 66.0420 (2) (v), except that “video service” does not
22 include signals received by privately owned antennas that are not connected to a
23 ~~cable television system~~ video service network whether or not the same signals are
24 provided by a ~~cable television company~~ video service provider.

25 **SECTION 60.** 943.46 (1) (d) of the statutes is created to read:

1 943.46 (1) (d) “Video service network” has the meaning given in s. 66.0420 (2)
2 (z).

3 **SECTION 61.** 943.46 (1) (e) of the statutes is created to read:

4 943.46 (1) (e) “Video service provider” means a municipality regulated cable
5 operator, as defined in s. 66.0420 (2) (o), or a video service franchisee, as defined in
6 s. 66.0420 (2) (y).

7 **SECTION 62.** 943.46 (2) (a) of the statutes is amended to read:

8 943.46 (2) (a) Obtain or attempt to obtain ~~eable television~~ video service from
9 a ~~company~~ provider by trick, artifice, deception, use of an illegal device or illegal
10 decoder or other fraudulent means with the intent to deprive that ~~company~~ provider
11 of any or all lawful compensation for rendering each type of service obtained. The
12 intent required for a violation of this paragraph may be inferred from the presence
13 on the property and in the actual possession of the defendant of a device not
14 authorized by the ~~eable television company~~ video service provider, the major purpose
15 of which is to permit reception of ~~eable television~~ video services without payment.
16 This inference is rebutted if the defendant demonstrates that he or she purchased
17 that device for a legitimate use.

18 **SECTION 63.** 943.46 (2) (b) of the statutes is amended to read:

19 943.46 (2) (b) Give technical assistance or instruction to any person in
20 obtaining or attempting to obtain any ~~eable television~~ video service without payment
21 of all lawful compensation to the ~~company~~ provider providing that service. This
22 paragraph does not apply if the defendant demonstrates that the technical
23 assistance or instruction was given or the installation of the connection, descrambler
24 or receiving device was for a legitimate use.

25 **SECTION 64.** 943.46 (2) (c) of the statutes is amended to read:

1 943.46 (2) (c) Make or maintain a connection, whether physical, electrical,
2 mechanical, acoustical or by other means, with any cables, wires, components or
3 other devices used for the distribution of ~~cable television~~ video services for the
4 purpose of distributing ~~cable television~~ video service to any other dwelling unit
5 without authority from a ~~cable television company~~ video service provider.

6 **SECTION 65.** 943.46 (2) (d) of the statutes is amended to read:

7 943.46 (2) (d) Make or maintain a connection, whether physical, electrical,
8 mechanical, acoustical or by other means, with any cables, wires, components or
9 other devices used for the distribution of ~~cable television~~ video services for the
10 purpose of obtaining ~~cable television~~ video service without payment of all lawful
11 compensation to the ~~company~~ provider providing that service. The intent required
12 for a violation of this paragraph may be inferred from proof that the ~~cable~~ video
13 service to the defendant's residence or business was connected under a service
14 agreement with the defendant and has been disconnected by the ~~cable television~~
15 ~~company~~ video service provider and that thereafter there exists in fact a connection
16 to the ~~cable system~~ video service network at the defendant's residence or business.

17 **SECTION 66.** 943.46 (2) (e) of the statutes is amended to read:

18 943.46 (2) (e) Make or maintain any modification or alteration to any device
19 installed with the authorization of a ~~cable television company~~ video service provider
20 for the purpose of intercepting or receiving any program or other service carried by
21 that ~~company~~ provider which that person is not authorized by that ~~company~~ provider
22 to receive. The intent required for a violation of this paragraph may be inferred from
23 proof that, as a matter of standard procedure, the ~~cable television company~~ video
24 service provider places written warning labels on its converters or decoders
25 explaining that tampering with the device is a violation of law and the converter or

1 decoder is found to have been tampered with, altered or modified so as to allow the
2 reception or interception of programming carried by the ~~cable television company~~
3 video service provider without authority to do so. The trier of fact may also infer that
4 a converter or decoder has been altered or modified from proof that the ~~cable~~
5 ~~television company~~ video service provider, as a matter of standard procedure, seals
6 the converters or decoders with a label or mechanical device, that the seal was shown
7 to the customer upon delivery of the decoder and that the seal has been removed or
8 broken. The inferences under this paragraph are rebutted if the ~~cable television~~
9 ~~company~~ video service provider cannot demonstrate that the intact seal was shown
10 to the customer.

11 **SECTION 67.** 943.46 (2) (f) of the statutes is amended to read:

12 943.46 (2) (f) Possess without authority any device or printed circuit board
13 designed to receive from a ~~cable television system~~ video service network any ~~cable~~
14 ~~television~~ video programming or services offered for sale over that ~~cable television~~
15 ~~system~~ video service network, whether or not the programming or services are
16 encoded, filtered, scrambled or otherwise made unintelligible, or perform or
17 facilitate the performance of any of the acts under pars. (a) to (e) with the intent that
18 that device or printed circuit be used to receive that ~~cable television company's~~ video
19 service provider's services without payment. Intent to violate this paragraph for
20 direct or indirect commercial advantage or private financial gain may be inferred
21 from proof of the existence on the property and in the actual possession of the
22 defendant of a device if the totality of circumstances, including quantities or
23 volumes, indicates possession for resale.

24 **SECTION 68.** 943.46 (2) (g) of the statutes is amended to read:

1 943.46 (2) (g) Manufacture, import into this state, distribute, publish,
2 advertise, sell, lease or offer for sale or lease any device, printed circuit board or any
3 plan or kit for a device or for a printed circuit designed to receive the ~~cable television~~
4 video programming or services offered for sale over a ~~cable television system~~ video
5 service network from a ~~cable television system~~ video service network, whether or not
6 the programming or services are encoded, filtered, scrambled or otherwise made
7 unintelligible, with the intent that that device, printed circuit, plan or kit be used for
8 the reception of that ~~company's~~ provider's services without payment. The intent
9 required for a violation of this paragraph may be inferred from proof that the
10 defendant has sold, leased or offered for sale or lease any device, printed circuit
11 board, plan or kit for a device or for a printed circuit board in violation of this
12 paragraph and during the course of the transaction for sale or lease the defendant
13 expressly states or implies to the buyer that the product will enable the buyer to
14 obtain ~~cable television~~ video service without charge.

15 **SECTION 69.** 943.46 (5) of the statutes is amended to read:

16 943.46 (5) EXCEPTION. This section does not affect the use by a person of ~~cable~~
17 ~~television~~ video services if the services have been paid for and the use is exclusive to
18 the person's dwelling unit. This subsection does not prohibit a board or council of any
19 city, village or town from specifying the number and manner of installation of outlets
20 used by any such person for ~~cable television~~ video services and does not prohibit a
21 ~~cable television company~~ video service provider, in any written contract with a
22 subscriber, from requiring the ~~company's~~ provider's approval for any increase in the
23 number of those outlets used.

24 **SECTION 70. Nonstatutory provisions.**

